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Attorney Docket No. LR001
Client/Matter No. 68209.0001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Edward PINTO

Serial No.: 09/522,481

Filed: March 10, 2000

For: **SYSTEM AND METHOD FOR PROCESSING A SECURED COLLATERAL LOAN (as amended)**

Art Unit: 3624

Examiner: Jeffrey PWU

Customer No. **23235**

Docket No. LR0001

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S BRIEF UNDER 37 CFR 1.192

I. Real Party in Interest

Lenders Residential Asset Company LLC
5608 Pioneer Lane
Bethesda, MD 20816

II. Related Appeals and Interferences

No other appeals or interferences are currently known to Appellant that will directly affect, be directly affected by, or have a bearing on the decision to be rendered by the Board of Patent Appeals and Interferences in the present appeal.

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III. Status of Claims

Claims 1-20 are pending in the application. No claims have been allowed. Claims 1-20 stand rejected under 35 U.S.C. §102 as being unpatentable over U.S. Patent 5,870,721 to Norris (the "Norris reference"). On June 25, 2003, Appellants appealed from the final rejection by filing a Notice of Appeal of all pending claims.

IV. Status of Amendments

In response to the Final Office Action mailed March 25, 2003, Appellants provided in a Response to Final Office dated May 21, 2003 and a Supplemental Response to Final Office Action dated May 29, 2003 an amendment to the Title and remarks that addressed the rejections under 35 U.S.C. § 102 and did not further amend the claims. In an Advisory Action mailed June 2, 2003, it was indicated that the request for reconsideration was considered and that the arguments were not found to be persuasive. However, the Response to Arguments in the Advisory Action did not address Applicants' arguments that at least one element of each of the independent claims was not shown in the Norris reference.

All claim amendments have been entered, and Claims 1-20, as originally filed or as previously amended, remain in the application for consideration in this appeal.

V. Summary of the Invention

Briefly, the invention is directed toward a system and method for loan processing that streamlines loan processing, particularly for secured loans such as home equity, refinance and purchase money loans, to reduce the time required to make a loan from weeks to as little as one hour. (page 7, lines 23-25) At the time of filing the application, studies of the secured loan industry indicated that prior home equity loan processing systems average about seventeen days from application to closing, with refinance and purchase money loans taking significantly longer. Much

of this time was lost in inefficient and duplicative processing steps and lack of control over the loan process resulting in pipeline losses. In general the steps to making a secured loan involve: getting information from a client or prospective borrower; verifying the information; evaluating the information; preparing documents for signature; transmitting documents; signing the documents; and funding the loan. Due to governmental and regulatory limitations, funding may actually occur several days after the other steps. (Page 8, lines 18-24) These steps of processing information involve obtaining and analyzing credit reports as well as obtaining and analyzing FICO scores, valuation, and debt-to-income ratios. (Page 18, line 25) The present invention improves upon these processes not merely to automate the processes but to make their performance uniformly streamlined.

The invention of claim 1 is directed to a method of processing a secured loan illustrated, for example, in Fig. 3 and Fig. 4. The process is initiated by accepting a loan application 302 (e.g., MAKE APPLICATION in Fig. 4) from a borrower. The loan application includes at least the borrower's identity, collateral identity, and stated income of the borrower. (page 17, lines 6-7) A credit request 304 is generated (e.g., OBTAIN CREDIT REPORT/FICO in Fig. 4) based upon the borrower's identity to obtain a credit report306, the credit report including credit information and credit score information. (page 17, line 22) A property evaluation database is accessed using the collateral identity. (page 13, line 24 through page 14, line 11) Based upon the credit report, a credit approval, collateral title underwriting approval, and income approval are generated. Loan documentation is generated and transmitted for signatures at closing (e.g., GENERATE LOAN DOCUMENTATION in Fig. 4).

The invention of claims 9 and 13 relate to loan processing systems. In claims 9 and 13 the systems include elements for obtaining a credit report 306 including credit score information. (page 17, line 22) In the system of claim 9, an underwriting matrix 501 is included to provide approval criteria enabling the system to

automatically approve a loan. The system of claim 13 includes, among other things, means for underwriting title based upon the credit report (page 18, lines 5-19).

VI. Issues

1. Whether the Office has stated a prima facie case of anticipation under 35 U.S.C. §103 dependent claims 2-8, 10-12 and 14-20.

2. Whether claims 1-20 are anticipated under 35 U.S.C. §103 by Norris.

VII. Grouping of Claims

The following groups of claims do not stand or fall together.

Group I: claim 2-8, 10-12 and 14-20

Group II: claim 1, 9 and 13

VIII. Argument

A. Rejection of Claims 2-8, 10-12 and 14-20 under 102 based on Norris is Improper

Although the Examiner has stated that claims 1-20 are rejected under 35 U.S.C. 102, the text of the July 26, 2002 Office Action, which is restated verbatim in the Final Office Action of March 25, 2003, fails to make even a cursory reference to the limitations found in the dependent claims. More specifically, claim 2 calls for the secured loan that comprises a residential home equity loan. None of the Office Actions allege where this feature is found in the reference, if at all. Claim 3 calls for an online credit reporting agency, yet the Office actions fail to make any statement in the rejections about an online credit reporting agency. Similar deficiencies exist in the rejections of claims 4-8, 10-12 and 14-20. Appellant has been placed in the untenable position of having to hunt and peck through the Norris reference to find where the examiner might be seeing support for the rejection. However, it is the obligation of the Office to at least state a prima facie case of anticipation or withdraw

the rejection. In this case, even after Appellant specifically requested clarification of these rejections the Examiner provided only an Advisory Action with no further clarification.

Accordingly, the rejection of dependent claims 2-8, 10-12 and 14-20 is improper for failing to state a prima facie case of obviousness and it is respectfully requested that the Board overturn the rejection.

B.   **Rejection of Claims 1, 9, and 13 under 35 U.S.C. 102 based on Norris is Improper**

Independent claim 1 calls for a loan processing method made up of several activities that are based in whole or in part upon the credit report/credit score of the loan applicant. Claim 1 is not attempting to claim a method for computing credit scores, nor is claim 1 claiming all uses of credit scores. Instead, claim 1 has set out a set of specific actions that use the credit score to perform a specific activity. These actions include:

- based upon the credit report, generating an approval of the property valuation from the database;

- based upon the credit report, generating a credit approval;

- based upon the credit report, underwriting title of the identified collateral;

- based upon the credit report and the stated income of the borrower, generating an approval of the borrower's ability to repay the loan;

- based upon the credit, collateral, and ability to repay approvals, generating loan documentation;

Of these activities, it is admitted that generating a credit approval based upon a credit report (by itself) is within the prior art. Credit reports are frequently used as tools for generating credit approval. However, credit approval is only one activity in processing a secured loan, and several other activities have been, until now, performed entirely independently of the credit report.

Indeed, it is somewhat counter-intuitive to use a credit report, which relates to a credit history of the loan applicant, as the basis for approving a property valuation. The value of a property is related to market conditions, property location, improvements, and the like and not related to the loan applicant at all. Why, then, would one elect to use the credit report to determine whether to approve a property valuation. Certainly Norris does not answer this question. The answer is taught only by Appellant.

The Examiner alleges that column 6, lines 8-55 and column 7, lines 10-37 and column 7, lines 55-65 show these features of claim 1. However, Norris does not show or suggest any method for approving the property valuation, nor show or suggest that underwriting title of the collateral is in any way based on the credit report. Norris, in fact, does not show or suggest any method or mechanism for performing these activities.

System claims 9 and 13 contain analogous elements. In the system of claim 9, an underwriting matrix 501 having an association between credit report values and approval criteria is included to provide approval criteria enabling the system to automatically approve a loan. The system of claim 13 includes, among other things, means for underwriting title based upon the credit report. These components of Appellant's system are not shown or fairly suggested by Norris.

Norris is specifically related to a method for generating a credit score, not using a credit score. In contrast, the systems of claim 9 and 13 relate specifically to

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methods for using a credit report/credit score, and are not limited to the specific manner in which a credit score is computed. Appellant's system could, in fact, make use of the credit score computed by Norris as easily as it could use the FICO score of the preferred embodiments. Novelty in claims 9 and 13 lies in how that credit report is used after it is generated.
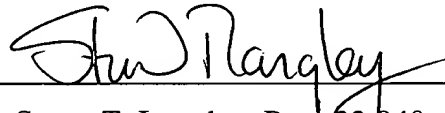
Accordingly, Appellants request that the rejection of claims 1, 9 and 13 under 35 U.S.C. § 102 based upon Norris be withdrawn. Moreover, had the Examiner been able to state a prima facie case of obviousness against claims 2-8, 10-12 and 14-20, these claims would also be allowable over Norris for at least the same reasons as the claims from which they depend.

Conclusion

In view of all of the above claims 1-20 are believed to be allowable and the case in condition for allowance and it is respectfully requested that the Examiner's rejections be overturned.

Respectfully submitted,

Date: __September 25, 2003__

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IX. APPENDIX OF CLAIMS ON APPEAL

1. A method of processing a secured loan comprising:

accepting a loan application from a borrower, the loan application comprising at least a borrower's identity, collateral identity, and stated income of the borrower;

generating a credit request based upon the borrower's identity to obtain a credit report, the credit report including credit information and credit score information;

accessing a property valuation database using the collateral identity;

based upon the credit report, generating an approval of the property valuation from the database;

based upon the credit report, generating a credit approval;

based upon the credit report, underwriting title of the identified collateral;

based upon the credit report and the stated income of the borrower, generating an approval of the borrower's ability to repay the loan;

based upon the credit, collateral, and ability to repay approvals, generating loan documentation;

transmitting the loan documentation to the borrower; and

closing the loan.

2. The method of claim 1 wherein the secured loan comprises a residential home equity loan.

3. The method of claim wherein the step of generating a credit request comprises generating a request to an online credit reporting agency.

4. The method of claim 1 wherein the step of generating credit approval comprises:

providing a matrix having predefined values relating FICO scores to approvable credit history criteria for the associated FICO score; and

determining if the obtained credit history contents meets the approvable criteria specified by the matrix.

5. The method of claim 1 wherein the step of underwriting title comprises:

providing a matrix having predefined values relating FICO scores to postponeable title underwriting criteria for the associated FICO score;

determining if the obtained credit history contents meets the postponeable title underwriting criteria specified by the matrix; and

when the credit history contents indicate the postponeable underwriting is satisfied, issuing a conditional underwriting commitment before closing and verifying the title status after closing.

6. The method of claim 5 wherein the step of verifying title status comprises

performing a deed search in a title record database to obtain a legal description of the collateral and a recorded name of the collateral owner; and

basing the title underwriting on the deed search without a full title record search.

7. The method of claim 6 wherein the step of verifying title status comprises:

obtaining a current status of lien positions from a title database using the collateral property description;

5 using the deed search results to determine whether title is vested in the borrower; and

using the deed search results to validate a legal description of the collateral property.

8. The method of claim 1 wherein the step of generating an approval of the borrower's ability to repay the loan further comprises:

providing a matrix having predefined values relating

5 FICO scores to whether the stated income in the loan application needs to be verified for the associated FICO score;

determining if the obtained credit history contents meets the FICO score criteria specified by the matrix;

10 and

generating the approval of the borrower's ability to pay without income verification when the obtained FICO score meets the specified criteria.

9. A secured loan processing system comprising:

a loan processing computer system having an interface for receiving a loan application from a borrower, the loan application comprising at least a

5 borrower's identity, collateral identity, and stated income of the borrower;

a credit reporting database in communication with the loan processing computer for receiving a request based upon the borrower's identity and providing a credit

10 report including a FICO score to the loan processing computer system;

a property evaluation database in communication with the loan processing computer for receiving a request based upon the collateral identity and providing a database evaluation report to the loan processing computer system;

an underwriting matrix within the loan processing system having an association between credit report values and approval criteria, wherein the loan processing computer can approve the loan application based upon the application contents, the database evaluation, and credit report without reference to additional direct data.

10.   The system of claim 9 further comprising:

a document generation module operable within the loan processing computer system for generating signature documentation for approved loans; and

a closing agent receiving the generated documentation to close the loan.

11.   The system of claim 10 further comprising a post closing process implemented by the loan processing computer system for performing a post-closing title verification on the collateral property.

12.   The system of claim 9 wherein the underwriting matrix includes criteria for issuing a title underwriting policy based entirely on the credit report results.

13.   A secured loan processing system comprising:

means for accepting a loan application from a borrower, the loan application comprising at least a borrower's identity, collateral identity, and stated income of the borrower;

means for generating a credit request based upon the borrower's identity to obtain a credit report, the credit

report including credit information and credit score information;

10   means for accessing a property evaluation database using the collateral identity;

means for generating a credit approval based upon the credit report;

means for underwriting title of the identified

15   collateral based upon the credit report;

means for generating an approval of the borrower's ability to repay the loan based upon the credit report and the stated income of the borrower;

means for generating loan documentation based upon

20   the credit, title, and ability to repay approvals; and

means for transmitting the loan documentation to the borrower.

14.   The system of claim 13 wherein the secured loan comprises a mortgage equity loan.

15.   The system of claim 13 wherein the means for generating a credit request comprises means for generating a request to an online credit reporting agency.

16.   The system of claim 13 wherein the means for generating credit approval comprises:

means for providing a matrix having predefined values relating FICO scores to approvable credit history

5   criteria for the associated FICO score; and

means for determining if the obtained credit history contents meets the approvable criteria specified by the matrix.

17.   The method of claim 13 wherein the means for underwriting title comprises:

means for providing a matrix having predefined values relating FICO scores to postponeable title

5   underwriting criteria for the associated FICO score;

means for determining if the obtained credit history contents meets the postponeable title underwriting criteria specified by the matrix; and

means for issuing a conditional underwriting

10   commitment before closing based solely upon the credit history and verifying the title status after closing when the credit history contents indicate the postponeable underwriting is satisfied.

18.   The system of claim 17 wherein the means for verifying title status comprises

means for performing a deed search in a title record database to obtain a legal description of the collateral

5   and a recorded name of the collateral owner.

19.   The system of claim 17 wherein the means for verifying title status comprises:

means for obtaining a current status of lien positions from a title database using the collateral

5   property description;

means for using the deed search results to determine whether title is vested in the borrower; and

means for validating a legal description of the collateral property using the deed search result.

20. The system of claim 13 wherein the means for generating an approval of the borrower's ability to repay the loan further comprises:

means for providing a matrix having predefined values relating FICO scores to whether the stated income in the loan application needs to be verified for the associated FICO score;

means for determining if the obtained credit history contents meets the FICO score criteria specified by the matrix; and

means for generating the approval of the borrower's ability to pay without income verification when the obtained FICO score meets the specified criteria.